

REFERENCE TITLE: charitable organizations; solicitations; disclosures

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HB 2091**

Introduced by  
Representatives Reagan: Barto, Konopnicki, Lujan, Senators McCune Davis,  
Tibshraeny

### AN ACT

AMENDING SECTION 44-6561, ARIZONA REVISED STATUTES; RELATING TO THE  
SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 44-6561, Arizona Revised Statutes, is amended to  
3 read:

4       44-6561. Unlawful acts or practices; violation; classification;  
5                   civil penalty

6       A. The following acts and practices are unlawful as applied to the  
7 planning, conduct or execution of a solicitation and constitute unlawful  
8 practices under section 44-1522 that the attorney general may investigate and  
9 for which he may take appropriate action as prescribed by chapter 10, article  
10 7 of this title:

11      1. Knowingly utilizing an emblem, device or printed matter belonging  
12 to or associated with a charitable organization without first being  
13 authorized in writing to do so by the charitable organization.

14      2. Knowingly utilizing a name, symbol or statement so closely related  
15 or similar to that used by another charitable organization for the purpose of  
16 misleading a solicited person.

17      3. Knowingly making a misrepresentation to a person that the person on  
18 whose behalf a solicitation is being conducted is a charitable organization.

19      4. Knowingly making a representation to a person that another person  
20 sponsors, endorses or approves the solicitation if the other person has not  
21 given consent in writing to the use of his name for these purposes.

22      5. Knowingly representing to a person that the registration  
23 constitutes an endorsement or approval by this state.

24      6. KNOWINGLY FAILING TO DISCLOSE IN A CLEAR AND CONSPICUOUS MANNER TO  
25 A PERSON MAKING A DONATION, AT A LOCATION IN WHICH A CHARITABLE ORGANIZATION  
26 OR OTHER BUSINESS ENTITY RECEIVES DONATED ITEMS FOR THE PURPOSE OF RESELLING  
27 THE ITEMS TO FINANCIALLY BENEFIT A CHARITABLE ORGANIZATION, BOTH OF THE  
28 FOLLOWING:

29       (a) THE CHARITABLE PERCENTAGE OF REVENUE RECEIVED BY THE CHARITABLE  
30 ORGANIZATION THAT BENEFITS FROM THE OPERATION OF THE ITEM DONATION LOCATION,  
31 WHETHER AT A CHARITABLE OR RETAIL LOCATION. THE CHARITABLE ORGANIZATION OR  
32 OTHER BUSINESS ENTITY SHALL UPDATE THE PERCENTAGE IF THE CHARITABLE  
33 PERCENTAGE CHANGES MORE THAN FIVE PER CENT COMPARED TO THE PERCENTAGE POSTED.  
34 FOR THE PURPOSES OF THIS SUBDIVISION, "CHARITABLE PERCENTAGE" MEANS:

35       (i) FOR THE INITIAL DISCLOSURE, THE PERCENTAGE THAT REPRESENTS THE  
36 AMOUNT OF MONIES THAT A CHARITABLE ORGANIZATION OBTAINED FROM THE SALE OF  
37 THRIFT GOODS FOR THE PRECEDING THIRTY-SIX MONTH PERIOD DIVIDED BY THE AMOUNT  
38 OF REVENUE THAT IS DERIVED FROM THE SELLING OF DONATIONS AT RETAIL FOR THAT  
39 THIRTY-SIX MONTH PERIOD.

40       (ii) THE PERCENTAGE THAT REPRESENTS THE AMOUNT OF MONIES THAT A  
41 CHARITABLE ORGANIZATION OBTAINED FROM THE SALE OF THRIFT GOODS DIVIDED BY THE  
42 AMOUNT OF REVENUE THAT IS DERIVED FROM THE SELLING OF DONATIONS AT RETAIL.

43       (b) THE PERCENTAGE OF THE DONATED ITEMS RECEIVED AT THE ITEM DONATION  
44 LOCATION THAT REMAINS IN THIS STATE FOR THE PURPOSE OF BEING RESOLD TO  
45 BENEFIT THE CHARITABLE ORGANIZATION THAT BENEFITS FROM THE OPERATION OF THE

1 ITEM DONATION LOCATION, WHETHER AT A CHARITABLE OR RETAIL LOCATION. THE  
2 CHARITABLE ORGANIZATION OR OTHER BUSINESS ENTITY SHALL UPDATE THE PERCENTAGE  
3 IF THE PERCENTAGE CHANGES MORE THAN FIVE PER CENT COMPARED TO THE PERCENTAGE  
4 POSTED.

5 B. Except as provided in section ~~44-6652~~ 44-6552, subsection D or  
6 subsection C of this section, a person who fails to register or provide  
7 reports as provided by this article or who otherwise fails to comply with any  
8 provision of this article is guilty of a class 1 misdemeanor.

9 C. A contracted fund raiser who knowingly conducts any act or practice  
10 proscribed in subsection A of this section is guilty of a class 6 felony.

11 D. An independent solicitor who knowingly conducts any act or practice  
12 ~~prescribed~~ PROSCRIBED in subsection A of this section or who fails to comply  
13 with section 44-6555, subsection D is guilty of a class 1 misdemeanor.

14 E. In addition to the criminal offenses provided in subsections B, C  
15 and D of this section, if a person conducts an act or practice proscribed in  
16 subsection A of this section, the attorney general may recover from the  
17 person on behalf of the state a civil penalty of not more than one thousand  
18 dollars per violation. The civil penalty prescribed by this subsection is in  
19 lieu of the penalty prescribed by section 44-1531.

20 Sec. 2. Effective date

21 This act is effective from and after December 31, 2009.